

### **DETAILED ACTION**

The response filed 9/22/2008 is acknowledged. Applicants' elected the species of Copper (Cu) as the impregnated metal, and submitted that claims 28-30, 36, and 37 read on or are generic to the elected species.

The election was made with traverse. Applicants' argued that it would not be an undue burden to search all the species together. In response, an undue search burden can be shown, *inter alia*, by showing that search of the different species would require different search terms. In this case, each metal is different and searching more than one would require different search terms.

The election of species requirement is still deemed proper and therefore made FINAL.

It is noted that the most recent listing of claims, filed 9/22/2008, does not contain the proper status modifiers for claims 31-35. These claims should be marked as (withdrawn) in future listing of claims, until such time as they may be rejoined.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 28-30, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/081372 (hereafter "the 372 reference", see IDS filed

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5/19/2008)) in view of KR 1999-0080808 (hereafter "the 808 reference", see PTO 892 mailed 12/27/2006).

The 572 reference teaches the carbon balls of instant claims, and suggests their use for deodorization. See the claims generally, page 27-28 (hollow balls, pore sizes, etc.), and page 31 (use in deodorization, suggestion that mesopores are optimal for this use). The reference also suggests impregnation with a transition metal; see claim 90.

What is lacking is a teaching of the elected metal, copper.

The 808 reference suggests impregnating carbon with metals, such as Cu, to increase the effectiveness of the carbon as a deodorizing agent.

It would have been prima facie obvious to a person of ordinary skill in the art at the time of the invention to use copper as the transition metal in the 572 reference. Obviousness stems from the notion that the 572 reference provides a carbon ball for deodorization, and generally suggests impregnating transition metals therein, whereas the 808 reference teaches the specific transition metals that are useful for this purpose.

### ***Conclusion***

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 9-22-2008 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC E. SILVERMAN whose telephone number is (571)272-5549. The examiner can normally be reached on Monday to Thursday 7:00 am to 5:00 pm and Friday 7:00 am to noon.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on 571 272 0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael G. Hartley/

Supervisory Patent Examiner, Art Unit 1618

Eric E. Silverman

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